

2025:PHHC:038964



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**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**CRA-S-886-2025  
DECIDED ON: 21.03.2025**

V @ A

.....APPELLANT

**VERSUS**

STATE OF HARYANA

.....RESPONDENT

**CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Anshuman Dalal, Advocate for the appellant.  
Mr. Gagandeep Singh Chhina, AAG Haryana

**SANDEEP MOUDGIL, J (ORAL)****1. Prayer**

The present appeal has been preferred under Section 101(5) of The Juvenile Justice (Care and Protection of Children) Act, 2015, against the impugned Order dated 18.02.2025 passed by Ld. Additional Sessions Judge, Rohtak, whereby the bail application under Section 483 of BNSS, for grant of concession of regular bail to the appellant in FIR No. 293 dated 15.07.2024, Under sections 103(1), 191(3), 190 and 61 of BNSS and 25 and 27 of Arms Act, registered at Police Station Meham, District Rohtak, Haryana has been dismissed, is based on conjectures and surmises and does not find footing in facts at hand or settled principles of law.

**2. Facts**

Facts as narrated in the FIR reads as under:-

*"To, SHO PS Meham Subject murdering by shooting Sir, it is stated that I Naveen son of Ved Parkash, am resident of Village Sisar Khas, District Rohtak and do the work of taking care of liquor vend at Village Sisar. Yesterday at about 09:30 PM in*

*evening, my brother Sunil son of Sombir resident of Vilalge Sisar Khas went to liquor vend on his motorcycle HR26BV5450 to take care of the vend then there Sachin @ Bholu son of Kuldeep, Balram @ Monti son of Kuldeep, Sohan @ Sonu son of Jai Singh @ Jessa, and Ajay son of Krishan, Ankit son of Mintu and elder son of Jai Singh son of Bhim Singh, whose name I don't know and two other unknown boys, who all belong to Village Sisar Khas. The other two boys their name and village I don't know. All these by keeping grudge of an earlier quarrel shot Sunil son of Sombir, resident of Village Khas, who is the son of my real paternal uncle (tau) by shooting with the pistol in their hands. There can be advisors for getting my brother Sunil son of Sombir murdered. That Vijay son of Satbir resident of Sisar Khas, Krishan son of Satbir are advisors and Sunita wife of Vijay resident of Sisar Khas wife of Sachin @ Bholu, Kela wife of Jai Singh, Sunita wife of Kuldeep, Shamsher son of Jai Bhagwan resident of Matanhail and Jai Bhagwan, Matanhail, Ex. Sarpanch Jhajjar can be the advisors. Legal action be taken against all of the others. I have presented my application to you. Sa/ - Naveen."*

**3. Contentions:**

**On behalf of the appellant**

Learned counsel for the appellant submits that the appellant has been nominated in the written complaint dated 15.07.2024 made by the complainant and was 17 years and 5 days on the date of occurrence. He further submits that no overt act has been attributed to the present appellant.

**On behalf of the State**

Learned State counsel has filed the custody certificate of the appellant, which is taken on record. He prays for dismissal of the present appeal on the ground that the appellant was present at the spot and gave fist blows to the

complainant, but he could not put forth any incriminating material to connect the appellant with the alleged commissioning of offence.

4. **Analysis**

Considering the custody period undergone by the appellant i.e., 8 months and 4 days and is not involved in any other case, as is evident from the perusal of the custody certificate, meaning thereby he is a person of clean antecedents. Moreover no overt act has been attributed to the appellant added with the fact that investigation is complete, challan stands presented on 11.10.2024, charges have been framed on 05.12.2024 and out of total 33 prosecution witnesses, none has been examined so far. This Court is sanguine of the fact that conclusion of trial shall take considerable time, no useful purpose would be served by keeping the appellant behind bars for uncertain period, wherein “*bail is a rule and jail is an exception*” and it would also violate the principle of right to speedy trial and expeditious disposal under Article 21 of Constitution of India, as has been time and again discussed by this Court, while relying upon the judgment of the Apex Court passed in ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131***. Relevant paras of the said judgment is reproduced as under:-

*“2. A fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an*

*exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society.*

*3. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case.*

*4. While so introspecting, among the factors that need to be considered is whether the accused was arrested during investigations when that person perhaps has the best opportunity to tamper with the evidence or influence witnesses. If the investigating officer does not find it necessary to arrest an accused person during investigations, a strong case should be made out for placing that person in judicial custody after a charge sheet is filed. Similarly, it is important to ascertain whether the accused was participating in the investigations to the satisfaction of the investigating officer and was not absconding or not appearing when required by the investigating officer. Surely, if an accused is not hiding from the investigating officer or is hiding due to some genuine and expressed fear of being victimised, it would be a factor that a judge would need to consider in an appropriate case. It is also necessary for the judge to consider whether the accused is a first-time offender or has been accused of other offences and if so, the nature of such offences and his or her general conduct. The poverty or the deemed indigent status of an accused is also an extremely*

*important factor and even Parliament has taken notice of it by incorporating an Explanation to section 436 of the Code of Criminal Procedure, 1973. An equally soft approach to incarceration has been taken by Parliament by inserting section 436A in the Code of Criminal Procedure, 1973.*

*5. To put it shortly, a humane attitude is required to be adopted by a judge, while dealing with an application for remanding a suspect or an accused person to police custody or judicial custody. There are several reasons for this including maintaining the dignity of an accused person, howsoever poor that person might be, the requirements of Article 21 of the Constitution and the fact that there is enormous overcrowding in prisons, leading to social and other problems as noticed by this Court in *In Re-Inhuman Conditions in 1382 Prisons*, 2017(4) RCR (Criminal) 416: 2017(5) Recent Apex Judgments (R.A.J.) 408 : (2017) 10 SCC 658*

*6. The historical background of the provision for bail has been elaborately and lucidly explained in a recent decision delivered in *Nikesh Tara chand Shah v. Union of India*, 2017 (13) SCALE 609 going back to the days of the Magna Carta. In that decision, reference was made to *Gurbaksh Singh Sibbia v. State of Punjab*, (1980) 2 SCC 565 in which it is observed that it was held way back in *Nagendra v. King-Emperor*, AIR 1924 Calcutta 476 that bail is not to be withheld as a punishment. Reference was also made to *Emperor v. Hutchinson*, AIR 1931 Allahabad 356 wherein it was observed that grant of bail is the rule and refusal is the exception. The provision for bail is therefore age-old and the liberal interpretation to the provision for bail is almost a century old, going back to colonial days.*

*7. However, we should not be understood to mean that bail should be granted in every case. The grant or refusal of bail is entirely within the discretion of the judge hearing*

*the matter and though that discretion is unfettered, it must be exercised judiciously and in a humane manner and compassionately. Also, conditions for the grant of bail ought not to be so strict as to be incapable of compliance, thereby making the grant of bail illusory.”*

Therefore, to elucidate further, this Court is conscious of the basic and fundamental principle of law that right to speedy trial is a part of reasonable, fair and just procedure enshrined under Article 21 of the Constitution of India. This constitutional right cannot be denied to the accused as is the mandate of the Apex court in “Hussainara Khatoon and ors (IV) v. Home Secretary, State of Bihar, Patna”, (1980) 1 SCC 98. Besides this, reference can be drawn upon that pre-conviction period of the under-trials should be as short as possible keeping in view the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence, reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.

5. **Relief:**

In view of the discussions made hereinabove, the appellant is hereby directed to be released on regular bail on furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

In the afore-said terms, the present petition is hereby allowed.

However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

(SANDEEP MOUDGIL)  
JUDGE

21.03.2025

Meenu

Whether speaking/reasoned      Yes/No  
Whether reportable                Yes/No